HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17109 of 2007

Dated: .09.2007

Between:

Sompalli Ganesh Kumar.

…Petitioner.

and

Chowdavaram Gram Panchayat and others.

…Respondents.

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17109 of 2007

ORDER:

This Writ Petition is filed seeking a writ of *mandamus* directing respondents 1 to 3 – Chowdavaram Gram Panchayat, the Tahasildar and the Station House Officer, Taluk P.S., Guntur, to refix the boundaries as per decree in O.S.No.2182 of 2006, dated 13.03.2007, and also pass an order preventing respondents 4 to 6 from interfering with peaceful possession of the petitioner in respect of the property in question.

The case of the petitioner is as follows. M/s.Sompalli Bala Subramanya Prasad, son of Appa Rao, and his wife Smt.Sompalli Rama Devi purchased an extent of Ac.0.50 cents of land in survey No.530/1 under a registered sale deed, dated 01.04.1987, from Mannava Seshaiah. They also purchased an extent 1186 square yards of vacant land under a registered sale deed, dated 01.07.1987, situated at Chowdawaram Village, Guntur Rural Mandal, from the father of the fourth respondent. In spite of the same, the fourth respondent is trying to interfere with the possession of the purchasers, and therefore, they filed O.S.No.2182 of 2006 on the file of the Court of the I Additional Junior Civil Judge, Guntur, against respondents 4 to 6. The same was decreed on 13.03.2007 against them. In spite of the same, respondents 4 to 6 colluded with the third respondent and are allegedly trying to create fake documents. In the meanwhile, the two purchasers executed a General Power of Attorney, dated 08.03.2007, in favour of the petitioner, and therefore, he has become absolute

owner of the property. The petitioner is allegedly in possession of the property. When there was interference, a complaint was lodged with the third respondent, but the First Information Report was not registered. Hence, the present Writ Petition.

As seen from the typed copy of the decree in O.S.No.2182 of 2006, Sompalli Bala Subramanya Prasad and his wife are plaintiffs, in whose favour the Court of I Additional Junior Civil Judge, Guntur, granted an injunction. The petitioner has no manner of right with reference to the said property. Secondly, the petitioner has filed a Xerox copy of the notarized Special Power of Attorney executed by those two persons authorizing him to take legal action in respect of the said property. Though he is a Special Power of Attorney, he cannot on his own maintain a writ petition. A proper course would have to file a writ petition on behalf of Bala Subramanya Prasad and Rama Devi as represented by the petitioner. The same was not done. Therefore, the petitioner has no *locus standi*. Secondly, if the two persons have already approached the civil Court and obtained a decree for injunction, nothing prevents them to approach the same Court and file an execution petition under Order 21 Rule 32 of the Code of Civil Procedure, 1908. Even if there is any interference, as alleged by respondents 2 to 6, the remedy of the decreeholders is to approach the civil Court and execute the decree. This Writ Petition cannot be converted into execution petition. If the complaint given by the decreeholders in March, 2007, is not registered by the third respondent, nothing prevents them to file a private complaint under Section 199/200 of the Criminal Procedure Code, 1973.

The Wit Petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

.09.2007

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